



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 27, 1994

Ms. Chris G. Elizalde
Law Offices of Walsh, Anderson, Underwood,
Schulze & Aldridge, P.C.
P.O. Box 2156
Austin, Texas 78768

OR94-214

Dear Ms. Elizalde:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (former V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 23410.

The Alpine Independent School District (the "district") received an open records request for, *inter alia*, the following:

Any and all correspondence concerning fees and all billing documents received from law firm of Walsh, Judge, Anderson, Underwood & Schulze, P.C. (work performed by attorney Chris Elizalde), and TASB Attorney Carmichael incident to work performed relative to "complaint(s)" by the undersigned involving time limitations in speaking by a citizen in a public hearing, and notice of subject for executive sessions on meeting agenda, which was addressed by AISD superintendent at regular AISD school board meeting on November 16, 1993.

You contend that the requested information² comes under the protection of the attorney-client privilege.

¹The Seventy-third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

²Although you have submitted to this office for review copies of both the attorney billing statements from your office and the legal opinions which gave rise in part to those billings, it is clear from the language of the open records request and subsequent correspondence this office has received from the requestor that the legal opinions themselves do not come within the ambit of the open records request.

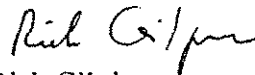
Although you raise the attorney-client privilege in the context of section 552.101 of the Government Code, this privilege is more properly deemed to be an aspect of section 552.107(1), which protects "information that the attorney general or an attorney of a political subdivision is prohibited from disclosing because of a duty to the client under the Rules of the State Bar of Texas." *See* Open Records Decision No. 574 (1990) (copy enclosed). In instances where an attorney represents a governmental entity, the attorney-client privilege protects only an attorney's legal advice and confidential attorney-client communications. *Id.* Accordingly, these two classes of information are the only information contained in attorney billing statements that may be withheld pursuant to the attorney-client privilege. *See* Open Records Decision No. 589 (1991) (copy enclosed) *overruling to extent of conflict* Open Records Decision No. 304 (1982).

The brief notations contained in the representative sample of billing statements that you submitted to this office clearly reveal the substance of privileged communications between the district and its attorney. It is equally clear, however, that to the extent that those notations pertain to the subject matter that gave rise to the current open records request, the district has waived the attorney-client privilege with regard to those notations by the superintendent's discussion of the subject matter of those communications in a public forum. Consequently, all notations pertaining to "time limitations in speaking by a citizen in a public hearing, and notice of subject for executive sessions on meeting agenda" are not protected by the attorney-client privilege and must be released.

We have marked the portions of the billing statements that reveal the substance of other privileged communications that the district may withhold pursuant to section 552.107(1), assuming, of course, that the fact that these matters were discussed with the district's attorney has not also been made public. However, the district must release all remaining information in the billing statements, including the billed hours and other costs for the attorney's services.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Rick Gilpin
Assistant Attorney General
Open Government Section

This office therefore need not address at this time the extent to which the legal opinions are subject to required public disclosure.

RG/RWP/rho

Ref.: ID# 23410
ID# 23511
ID# 24050

Enclosures: Open Records Decision Nos. 589, 574
Marked documents

cc: Mr. Manfred L. Fritsche
306 East June Avenue
Alpine, Texas 79830
(w/o enclosures)